

AMENDED IN ASSEMBLY MAY 27, 2008

AMENDED IN ASSEMBLY APRIL 1, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2825

Introduced by Assembly Member Carter
(Coauthors: Assembly Members ~~Portantino and Swanson~~ *De Leon,*
***Portantino, and Swanson*)**
(Coauthors: Senators Denham and Florez)

February 22, 2008

An act to amend, *repeal, and add* Sections 9884.8 and 9884.9 of the Business and Professions Code, relating to automotive repair.

LEGISLATIVE COUNSEL'S DIGEST

AB 2825, as amended, Carter. Automotive repair: crash parts.

Existing law, the Automotive Repair Act, establishes the Bureau of Automotive Repair under the supervision and control of the Director of Consumer Affairs. The act provides for the registration and regulation of automotive repair dealers and authorizes the director to adopt regulations to implement its provisions. The act requires all work done by an automotive repair dealer to be recorded on an invoice that describes all service work done and parts supplied and specifies if any used, rebuilt, or reconditioned parts are supplied. The act requires the invoice to include a statement indicating whether any crash parts are original equipment manufacturer crash parts or nonoriginal equipment manufacturer aftermarket crash parts. The act also requires this information to be provided to a customer in an itemized written estimate when an automotive repair dealer is doing auto body or collision repairs. Existing law requires the automotive repair dealer to obtain authorization

from the customer before performing work and imposing charges. A violation of the act is a crime.

This bill would require the invoice to specify if any used, rebuilt, remanufactured, or reconditioned parts are supplied. The bill would require the first page of the itemized written estimate to include a notice, as specified, stating that providing parts other than those described on the estimate without prior approval from the customer is unlawful. *The bill would require an automotive repair dealer to attach copies of specified invoices to the estimate for all crash parts installed in excess of \$50.* The bill would additionally require an automotive repair dealer, when doing auto body or collision repairs, to provide a specified certification, *on the first page of the final invoice*, to the customer upon completion of the repairs indicating that the crash parts identified on the written estimate *and attached invoices* provided to the customer, or pursuant to an approved change to the estimate, were installed on the customer's motor vehicle. ~~The bill would require the certification to be signed by the automotive repair dealer or his or her designee and would require it to appear on the first page of the final invoice. The bill would authorize the bureau to adopt regulations specifying the form and content of the notice and the certification.~~ The bill would make findings and declarations in this regard. *The bill would make these provisions operative on January 1, 2010.*

Because a violation of the bill's provisions would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) At least 10 percent of all crashes nationwide occur in
- 4 California and there are over one million vehicles involved in
- 5 accidents in California every year or nearly 3,000 every single
- 6 day.

1 (b) Part switching is the practice whereby some auto body repair
2 shops charge the consumer or insurer the cost of a repair part that
3 was not actually installed on a vehicle.

4 (c) Part switching is unlawful and is prosecuted by the Bureau
5 of Automotive Repair (BAR) when uncovered. Auto body repair
6 shops are required under California statutes and BAR regulations
7 to install parts specified in an estimate at the time of each collision
8 repair.

9 (d) In January of 2007, the BAR reopened the Auto Body
10 Inspection Program but can only do a limited number of inspections
11 of the over one million crash repairs done in California each year.

12 (e) In spite of the best efforts by the BAR to enforce car parts
13 laws and regulations, many consumers may still be victimized by
14 the illegal practice of “part switching.”

15 (f) Many consumers are unaware of services to combat car part
16 switching without their prior approval and have insufficient tools
17 to determine when this unlawful activity occurs.

18 (g) In its 2003 report, BAR recommends that stakeholders
19 “explore specific methods and strategies to reduce unfair and illegal
20 practices in the auto collision repair industry.”

21 (h) It is the intent of this legislation to educate, inform, and
22 empower the consumer to be vigilant when contracting auto repair
23 services and to not duplicate existing law.

24 (i) The best time to educate consumers about “parts switching”
25 is at the time of collision repair.

26 (j) Consumers deserve assurances that they are getting what
27 their insurance policies specify and what was specified on their
28 estimate. Ensuring that consumers receive accurate information
29 about repair service for their vehicles will help deter part switching
30 and solidify a morally and ethically sound relationship between
31 the customer and auto body repair shops.

32 ~~SEC. 2. Section 9884.8 of the Business and Professions Code~~
33 ~~is amended to read:~~

34 ~~9884.8. All work done by an automotive repair dealer, including~~
35 ~~all warranty work, shall be recorded on an invoice and shall~~
36 ~~describe all service work done and parts supplied. Service work~~
37 ~~and parts shall be listed separately on the invoice, which shall also~~
38 ~~state separately the subtotal prices for service work and for parts,~~
39 ~~not including sales tax, and shall state separately the sales tax, if~~
40 ~~any, applicable to each. If any used, rebuilt, remanufactured, or~~

1 reconditioned parts are supplied, the invoice shall clearly state that
2 fact. If a part of a component system is composed of new and used,
3 rebuilt, remanufactured, or reconditioned parts, that invoice shall
4 clearly state that fact. The invoice shall include a statement
5 indicating whether any crash parts are original equipment
6 manufacturer crash parts or nonoriginal equipment manufacturer
7 aftermarket crash parts and a certification with respect to those
8 crash parts as required under Section 9884.9. One copy of the
9 invoice shall be given to the customer and one copy shall be
10 retained by the automotive repair dealer.

11 SEC. 3. Section 9884.9 of the Business and Professions Code
12 is amended to read:

13 9884.9. (a) The automotive repair dealer shall give to the
14 customer a written estimated price for labor and parts necessary
15 for a specific job. No work shall be done and no charges shall
16 accrue before authorization to proceed is obtained from the
17 customer. No charge shall be made for work done or parts supplied
18 in excess of the estimated price without the oral or written consent
19 of the customer that shall be obtained at some time after it is
20 determined that the estimated price is insufficient and before the
21 work not estimated is done or the parts not estimated are supplied.
22 Written consent or authorization for an increase in the original
23 estimated price may be provided by electronic mail or facsimile
24 transmission from the customer. The bureau may specify in
25 regulation the procedures to be followed by an automotive repair
26 dealer if an authorization or consent for an increase in the original
27 estimated price is provided by electronic mail or facsimile
28 transmission. If that consent is oral, the dealer shall make a notation
29 on the work order of the date, time, name of person authorizing
30 the additional repairs, and telephone number called, if any, together
31 with a specification of the additional parts and labor and the total
32 additional cost, and shall do either of the following:

33 (1) Make a notation on the invoice of the same facts set forth
34 in the notation on the work order.

35 (2) Upon completion of the repairs, obtain the customer's
36 signature or initials to an acknowledgment of notice and consent,
37 if there is an oral consent of the customer to additional repairs, in
38 the following language:

39
40 "I acknowledge notice and oral approval of an increase in the

original estimated price.

(signature or initials)"

Nothing in this section shall be construed as requiring an automotive repair dealer to give a written estimated price if the dealer does not agree to perform the requested repair.

(b) The automotive repair dealer shall include with the written estimated price a statement of any automotive repair service that, if required to be done, will be done by someone other than the dealer or his or her employees. No service shall be done by someone other than the dealer or his or her employees without the consent of the customer, unless the customer cannot reasonably be notified. The dealer shall be responsible, in any case, for any service in the same manner as if the dealer or his or her employees had done the service.

(c) In addition to subdivisions (a) and (b), an automotive repair dealer, when doing auto body or collision repairs, shall do both of the following:

(1) Provide an itemized written estimate for all parts and labor to the customer. The written estimate shall describe labor and parts separately and shall identify each part, indicating whether the replacement part is new, used, rebuilt, remanufactured, or reconditioned. Each crash part shall be identified on the written estimate and the written estimate shall indicate whether the crash part is an original equipment manufacturer crash part or a nonoriginal equipment manufacturer aftermarket crash part. The first page of the written estimate shall include a notice that providing a part, other than a part described on the written estimate, without prior approval from the customer, is unlawful and the notice shall also include a toll-free telephone number for the bureau. The bureau may specify in regulation the form and content of the notice.

(2) Upon completion of the repairs, provide a written certification to the customer that the crash parts identified on the itemized written estimate, or pursuant to an approved change to the written estimate, have been installed on the motor vehicle. The certification shall be signed by the automotive repair dealer or his or her designee and it shall appear on the first page of the final

1 invoice given to the customer. The bureau may specify in
2 regulation the form and content of the certification.

3 (d) A customer may designate another person to authorize work
4 or parts supplied in excess of the estimated price, if the designation
5 is made in writing at the time that the initial authorization to
6 proceed is signed by the customer. The bureau may specify in
7 regulation the form and content of a designation and the procedures
8 to be followed by the automotive repair dealer in recording the
9 designation. For the purposes of this section, a designee shall not
10 be the automotive repair dealer providing repair services or an
11 insurer involved in a claim that includes the motor vehicle being
12 repaired, or an employee or agent or a person acting on behalf of
13 the dealer or insurer.

14 *SEC. 2. Section 9884.8 of the Business and Professions Code*
15 *is amended to read:*

16 9884.8. (a) All work done by an automotive repair dealer,
17 including all warranty work, shall be recorded on an invoice and
18 shall describe all service work done and parts supplied. Service
19 work and parts shall be listed separately on the invoice, which
20 shall also state separately the subtotal prices for service work and
21 for parts, not including sales tax, and shall state separately the sales
22 tax, if any, applicable to each. If any used, rebuilt, or reconditioned
23 parts are supplied, the invoice shall clearly state that fact. If a part
24 of a component system is composed of new and used, rebuilt or
25 reconditioned parts, that invoice shall clearly state that fact. The
26 invoice shall include a statement indicating whether any crash
27 parts are original equipment manufacturer crash parts or
28 nonoriginal equipment manufacturer aftermarket crash parts. One
29 copy of the invoice shall be given to the customer and one copy
30 shall be retained by the automotive repair dealer.

31 (b) *This section shall remain in effect only until January 1, 2010,*
32 *and as of that date is repealed, unless a later enacted statute, that*
33 *is enacted before January 1, 2010, deletes or extends that date.*

34 *SEC. 3. Section 9884.8 is added to the Business and Professions*
35 *Code, to read:*

36 9884.8. (a) All work done by an automotive repair dealer,
37 including all warranty work, shall be recorded on an invoice and
38 shall describe all service work done and parts supplied. Service
39 work and parts shall be listed separately on the invoice, which
40 shall also state separately the subtotal prices for service work and

for parts, not including sales tax, and shall state separately the sales tax, if any, applicable to each. If any used, rebuilt, remanufactured, or reconditioned parts are supplied, the invoice shall clearly state that fact. If a part of a component system is composed of new and used, rebuilt, remanufactured, or reconditioned parts, that invoice shall clearly state that fact. The invoice shall include a statement indicating whether any crash parts are original equipment manufacturer crash parts or nonoriginal equipment manufacturer aftermarket crash parts and a certification with respect to those crash parts as required under Section 9884.9. One copy of the invoice shall be given to the customer and one copy shall be retained by the automotive repair dealer.

(b) This section shall become operative on January 1, 2010.

SEC. 4. Section 9884.9 of the Business and Professions Code is amended to read:

9884.9. (a) The automotive repair dealer shall give to the customer a written estimated price for labor and parts necessary for a specific job. No work shall be done and no charges shall accrue before authorization to proceed is obtained from the customer. No charge shall be made for work done or parts supplied in excess of the estimated price without the oral or written consent of the customer that shall be obtained at some time after it is determined that the estimated price is insufficient and before the work not estimated is done or the parts not estimated are supplied. Written consent or authorization for an increase in the original estimated price may be provided by electronic mail or facsimile transmission from the customer. The bureau may specify in regulation the procedures to be followed by an automotive repair dealer if an authorization or consent for an increase in the original estimated price is provided by electronic mail or facsimile transmission. If that consent is oral, the dealer shall make a notation on the work order of the date, time, name of person authorizing the additional repairs, and telephone number called, if any, together with a specification of the additional parts and labor and the total additional cost, and shall do either of the following:

(1) Make a notation on the invoice of the same facts set forth in the notation on the work order.

(2) Upon completion of the repairs, obtain the customer's signature or initials to an acknowledgment of notice and consent,

1 if there is an oral consent of the customer to additional repairs, in
2 the following language:

3
4 “I acknowledge notice and oral approval of an increase in the
5 original estimated price.

6
7 _____
8 (signature or initials)”

9 Nothing in this section shall be construed as requiring an
10 automotive repair dealer to give a written estimated price if the
11 dealer does not agree to perform the requested repair.

12 (b) The automotive repair dealer shall include with the written
13 estimated price a statement of any automotive repair service that,
14 if required to be done, will be done by someone other than the
15 dealer or his or her employees. No service shall be done by other
16 than the dealer or his or her employees without the consent of the
17 customer, unless the customer cannot reasonably be notified. The
18 dealer shall be responsible, in any case, for any service in the same
19 manner as if the dealer or his or her employees had done the
20 service.

21 (c) In addition to subdivisions (a) and (b), an automotive repair
22 dealer, when doing auto body or collision repairs, shall provide
23 an itemized written estimate for all parts and labor to the customer.
24 The estimate shall describe labor and parts separately and shall
25 identify each part, indicating whether the replacement part is new,
26 used, rebuilt, or reconditioned. Each crash part shall be identified
27 on the written estimate and the written estimate shall indicate
28 whether the crash part is an original equipment manufacturer crash
29 part or a nonoriginal equipment manufacturer aftermarket crash
30 part.

31 (d) A customer may designate another person to authorize work
32 or parts supplied in excess of the estimated price, if the designation
33 is made in writing at the time that the initial authorization to
34 proceed is signed by the customer. The bureau may specify in
35 regulation the form and content of a designation and the procedures
36 to be followed by the automotive repair dealer in recording the
37 designation. For the purposes of this section, a designee shall not
38 be the automotive repair dealer providing repair services or an
39 insurer involved in a claim that includes the motor vehicle being

1 repaired, or an employee or agent or a person acting on behalf of
2 the dealer or insurer.

3 *(e) This section shall remain in effect only until January 1, 2010,*
4 *and as of that date is repealed, unless a later enacted statute, that*
5 *is enacted before January 1, 2010, deletes or extends that date.*

6 SEC. 5. Section 9884.9 is added to the Business and Professions
7 Code, to read:

8 9884.9. (a) The automotive repair dealer shall give to the
9 customer a written estimated price for labor and parts necessary
10 for a specific job. No work shall be done and no charges shall
11 accrue before authorization to proceed is obtained from the
12 customer. No charge shall be made for work done or parts supplied
13 in excess of the estimated price without the oral or written consent
14 of the customer that shall be obtained at some time after it is
15 determined that the estimated price is insufficient and before the
16 work not estimated is done or the parts not estimated are supplied.
17 Written consent or authorization for an increase in the original
18 estimated price may be provided by electronic mail or facsimile
19 transmission from the customer. The bureau may specify in
20 regulation the procedures to be followed by an automotive repair
21 dealer if an authorization or consent for an increase in the original
22 estimated price is provided by electronic mail or facsimile
23 transmission. If that consent is oral, the dealer shall make a
24 notation on the work order of the date, time, name of person
25 authorizing the additional repairs, and telephone number called,
26 if any, together with a specification of the additional parts and
27 labor and the total additional cost, and shall do either of the
28 following:

29 (1) Make a notation on the invoice of the same facts set forth
30 in the notation on the work order.

31 (2) Upon completion of the repairs, obtain the customer's
32 signature or initials to an acknowledgment of notice and consent,
33 if there is an oral consent of the customer to additional repairs,
34 in the following language:

35
36 "I acknowledge notice and oral approval of an increase in the
37 original estimated price.

38
39 _____
40 (signature or initials)"

1 *Nothing in this section shall be construed as requiring an*
2 *automotive repair dealer to give a written estimated price if the*
3 *dealer does not agree to perform the requested repair.*

4 *(b) The automotive repair dealer shall include with the written*
5 *estimated price a statement of any automotive repair service that,*
6 *if required to be done, will be done by someone other than the*
7 *dealer or his or her employees. No service shall be done by anyone*
8 *other than the dealer or his or her employees without the consent*
9 *of the customer, unless the customer cannot reasonably be notified.*
10 *The dealer shall be responsible, in any case, for any service in the*
11 *same manner as if the dealer or his or her employees had done*
12 *the service.*

13 *(c) In addition to subdivisions (a) and (b), an automotive repair*
14 *dealer, when doing auto body or collision repairs, shall do all of*
15 *the following:*

16 *(1) Provide an itemized written estimate for all parts and labor*
17 *to the customer. The written estimate shall describe labor and*
18 *parts separately and shall identify each part, indicating whether*
19 *the replacement part is new, used, rebuilt, remanufactured, or*
20 *reconditioned. Each crash part shall be identified on the written*
21 *estimate and the written estimate shall indicate whether the crash*
22 *part is an original equipment manufacturer crash part or a*
23 *nonoriginal equipment manufacturer aftermarket crash part. In*
24 *all instances, the first page of the written estimate shall contain a*
25 *notice with the following information in 12-point boldface type or*
26 *larger enclosed in a box:*

27
28 *“PROVIDING A PART, OTHER THAN A PART DESCRIBED*
29 *ON THE WRITTEN ESTIMATE, WITHOUT PRIOR APPROVAL*
30 *FROM THE CUSTOMER, IS UNLAWFUL. FOR MORE*
31 *INFORMATION, PLEASE CONTACT THE STATE BUREAU OF*
32 *AUTOMOTIVE REPAIR.”*

33
34 *(2) Attach copies of invoices from the distributor, dealer or*
35 *manufacturer for all crash parts installed in excess of fifty dollars*
36 *(\$50).*

37 *(3) Upon completion of the repairs, provide a written*
38 *certification to the customer that the crash parts identified on the*
39 *itemized written estimate provided to the customer prior to the*
40 *completion of the repairs and on the attached invoices, or pursuant*

1 *to an approved change to the written estimate, have been installed*
2 *on the motor vehicle. The certification shall appear on the first*
3 *page of the final invoice and shall contain the following*
4 *information in 12-point boldface type or larger enclosed in a box:*
5

6 *“THIS AUTOMOTIVE REPAIR DEALER [INSERT NAME OF*
7 *BUSINESS] CERTIFIES THAT THE CRASH PARTS IDENTIFIED*
8 *ON THE ITEMIZED WRITTEN ESTIMATE, ATTACHED*
9 *INVOICES, AND APPROVED CHANGES, HAVE BEEN*
10 *INSTALLED ON THE MOTOR VEHICLE.”*
11

12 *(d) A customer may designate another person to authorize work*
13 *or parts supplied in excess of the estimated price, if the designation*
14 *is made in writing at the time that the initial authorization to*
15 *proceed is signed by the customer. The bureau may specify in*
16 *regulation the form and content of a designation and the*
17 *procedures to be followed by the automotive repair dealer in*
18 *recording the designation. For the purposes of this section, a*
19 *designee shall not be the automotive repair dealer providing repair*
20 *services or an insurer involved in a claim that includes the motor*
21 *vehicle being repaired, or an employee or agent or a person acting*
22 *on behalf of the dealer or insurer.*

23 *(e) This section shall become operative on January 1, 2010.*

24 ~~SEC. 4.~~

25 *SEC. 6. No reimbursement is required by this act pursuant to*
26 *Section 6 of Article XIII B of the California Constitution because*
27 *the only costs that may be incurred by a local agency or school*
28 *district will be incurred because this act creates a new crime or*
29 *infraction, eliminates a crime or infraction, or changes the penalty*
30 *for a crime or infraction, within the meaning of Section 17556 of*
31 *the Government Code, or changes the definition of a crime within*
32 *the meaning of Section 6 of Article XIII B of the California*
33 *Constitution.*